

Complaint.

FEDERAL TRADE COMMISSION

v.

UNIVERSAL MOTOR COMPANY AND UNIVERSAL
PRODUCTS COMPANY.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 582—May 27, 1921.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of electric lighting plants used its well-known trade name "Universal" in advertising, referring to, and selling its product, and thereafter two competitors adopted and applied said trade name to their respective products in advertising and selling the same:

Held, that such appropriation of trade name, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that Universal Motor Co. and Universal Products Co., hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect, on information and belief as follows:

PARAGRAPH 1. That the respondent Universal Motor Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at the city of Oshkosh in said State, now and ever since December, 1914, engaged in the business of selling electric lighting plants for use on farms throughout various States of the United States in direct competition with other persons, firms, copartnerships, and corporations similarly engaged, and the respondent Universal Products Co. is a corporation organized, ex-

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isting, and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at the city of Sandusky, State of Ohio, at all times herein mentioned engaged in the business of selling and distributing the products of the respondent Universal Motor Co.

PAR. 2. That the respondent Universal Motor Co. in the conduct of its business purchases the materials and parts for use in its products in various States of the United States, causing the same to be shipped therefrom through other States in and to the city of Oshkosh, State of Wisconsin, where they are assembled and made into the finished product and then sold and shipped to customers in different States of the United States, and there is and has been at all times herein mentioned a constant current of trade and commerce in such lighting plants between and among the several States of the United States and more particularly in and to the city of Oshkosh, State of Wisconsin, and therefrom through and to other States and Territories of the United States.

PAR. 3. That the Universal Battery Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at the city of Chicago, in said State, now and ever since the year 1913 engaged in selling and distributing electric storage batteries and electric lighting plants for use on farms in competition with the respondents herein. That during the year 1913 the aforesaid Universal Battery Co. took over and acquired all the right, title, and interest in and to the business, good will, and trade names of Universal Electric Storage Battery Co., which had been engaged since the year 1911 in selling and distributing electric storage batteries and electric lighting plants for farm use.

PAR. 4. That ever since the year 1911 said Universal Battery Co. and its predecessor, Universal Electric Storage Battery Co., have used, adopted, and applied to their batteries and lighting plants the trade name "Universal," and by advertisements in circulars and newspapers generally distributed throughout various States of the United States their products have become well known and established with the trade and general public as Universal batteries and Universal lighting plants.

PAR. 5. That the respondents, Universal Motor Co. and Universal Products Co., ever since December, 1914, in commerce aforesaid, have advertised and sold and are now offering for sale to the trade and general public lighting plants for which they have adopted and assumed the trade names of Universal lighting unit, Universal unit lighting plants, and Universal farm lighting unit, and that the

effect of such simulation has been, and is, among others, to confuse the trade and general public and mislead dealers, customers, and prospective customers into the belief that the lighting plants of the respondents and Universal battery company are one and the same.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondents, Universal Motor Co. and Universal Products Co., charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

The respondents, having entered their appearances and filed their answers herein through their respective attorneys, and the said attorneys and the attorney for the Commission having introduced evidence herein as provided by said act, and respondent having entered into stipulations as to the facts and requested the Commission to issue its order in conformity therewith, and respondent having waived oral argument and the filing of briefs with the Commission, and the Commission being now fully advised in the premises, finds and concludes as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the Universal Battery Co., a corporation organized, existing and doing business since the year 1913, under the laws of the State of Illinois, with its principal place of business in Chicago, in said State, succeeded to the business conducted by the Universal Electric Storage Battery Co., a corporation that had been organized in 1911, and which in turn had succeeded to the business conducted by a firm in Chicago since 1901; that said Universal Battery Co. has been since said year 1913, and now is, engaged in manufacturing, selling, and distributing in interstate commerce, electric storage batteries and electric lighting plants; that in its advertising, correspondence, and contracts of sale, it had given and is giving to such battery and electric lighting plants the name "Universal," which had been used by its said predecessors since 1901; that the public recognized during said period and now recognizes the product of said company by the said name "Universal" used in connection therewith.

PAR. 2. That the respondent, Universal Motor Co., a corporation organized in 1914, under the laws of the State of Wisconsin, with its principal place of business at Oshkosh, in said State, has been since said year, and now is, engaged in selling and distributing in inter-

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state commerce, lighting plants for farm purposes in direct competition with said Universal Battery Co.; that in its advertising and sales of its product the name "Universal" has likewise been given thereto, though said respondent began business subsequent to the time said Universal Battery Co. started to engage in business.

PAR. 3. That the respondent, Universal Products Co., a corporation organized in 1918 under the laws of the State of Wisconsin, with its principal office at the city of Sandusky, in the State of Ohio, has been since said year engaged in advertising and selling in interstate commerce electric-lighting plants in direct competition with said Universal Battery Co., and in so doing has used the word "Universal" in connection with its said products; notwithstanding the fact that it began business subsequent to the time the said Universal Battery Co. started to engage in business.

PAR. 4. That the said Universal Battery Co. and the said respondents, Universal Motor Co. and Universal Products Co., respectively, have been, and now are, in the conduct of their business as heretofore described, selling and transporting their said respective products from their respective places of business to the purchasers thereof in other States of the United States and in the Territories of the United States and in foreign countries, and there has existed during all the said period, and now exists, a constant current of commerce in their said respective products between the said States, Territories, and foreign countries.

PAR. 5. That said Universal Battery Co. and said respondent, Universal Motor Co., entered into a stipulation herein, wherein they requested the Federal Trade Commission to issue its order herein whereby said respondent "shall have the right to refer to their product in their advertising literature, as 'Universal electric generating sets,' or 'Universal Motor Co.'s farm-lighting plants,' or the like, so long as they do not use the wording 'Universal lighting plant' or 'Universal lighting system' specifically as adopted by said Universal Battery Co., the object being to so word the advertising of the Universal Motor Co. as to differentiate from the advertising of the Universal Battery Co. and thus avoid all possible conflict that might suggest unfair competition."

PAR. 6. That said Universal Battery Co. and said respondent, Universal Products Co., entered into a stipulation herein wherein they requested the Federal Trade Commission to issue its order herein to provide that said respondent "shall hereafter not use the word 'Universal' in its advertising of lighting plants or systems without immediately following such word in all cases with the word 'Products,'" and that "Universal Products Co. will advertise light-

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ing plants or systems only under the name of 'Universal Products lighting plants' or 'systems,' or equivalent language, including the words 'Universal' and 'Products,' the one following immediately after the other; and that the Universal Products Co. shall immediately change all advertising plates and matter in so far as it is possible"; and that said respondent will not "permit the use upon its behalf of any plate or advertising matter which does not conform with this stipulation."

CONCLUSION.

The practices of said respondents under the conditions and circumstances described in the foregoing findings constitute unfair methods of competition in interstate commerce and a violation of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

This cause having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, the stipulation of facts executed and filed herein by counsel for the respective parties, the testimony and other evidence introduced by counsel herein, and the Commission having made its findings as to the facts, with its conclusion that the respondents have violated the provisions of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

It is ordered that the respondent, Universal Motor Co., cease and desist in the course of its business in interstate commerce from using the word "Universal" in its advertising, on its letterheads, billheads, and other stationery, to describe or designate its lighting plants or lighting systems, unless the word "Universal" be followed with or accompanied by the words "Motor Co.," or by other words clearly showing that the lighting plants or lighting systems are those of the Universal Motor Co.

It is further ordered that the respondent, Universal Products Co., cease and desist in the course of its business in interstate commerce from using the word "Universal" in its advertising, on its letterheads, billheads, and other stationery, to describe or designate its lighting plants or lighting systems unless the word "Universal" be followed with or accompanied by the words "Products Co.," or by other words clearly showing that the lighting plants or lighting systems are those of the Universal Products Co.

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It is further ordered that respondents and each of them shall, within 60 days from the date of this order, file with the Commission a report or statement showing how and in what manner they have been and are complying with this order.

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THE STAR PROVISION COMPANY, MALONE OIL COMPANY
and B. MARX, TRADING UNDER THE NAME AND STYLE
OF LIBERTY OIL PRODUCTS COMPANY.